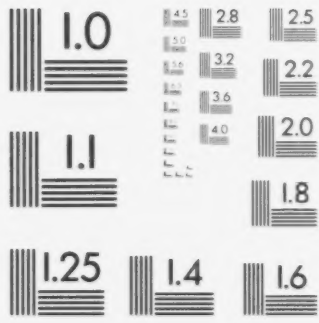
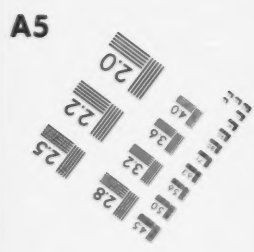


100 mm



1.0 mm
1.5 mm
2.0 mm

1234567890
abcdefghijklmnopqrstuvwxyz
ABCDEFGHIJKLMNOPQRSTUVWXYZ
abcdefghijklmnopqrstuvwxyz1234567890



DOCUMENT RESUME

ED 293 763

SO 019 005

TITLE America's Conscience: The Constitution in Our Daily Life. An Educational Program on the Constitutional Guarantees Provided to Every American.

INSTITUTION B'nai B'rith, New York, N.Y. Anti-Defamation League.

REPORT NO ISBN-0-88464-118-X

PUB DATE 87

NOTE 33p.

PUB TYPE Guides - Classroom Use - Guides (For Teachers) (052)

EDRS PRICE MF01/PC02 Plus Postage.

DESCRIPTORS *Civil Liberties; *Civil Rights; *Constitutional Law; Court Litigation; Democracy; Freedom of Information; Freedom of Speech; Instructional Materials; *Learning Activities; Secondary Education

IDENTIFIERS *Bill of Rights; Fourteenth Amendment; Thirteenth Amendment; *United States Constitution

ABSTRACT

Twenty activities and seven educational objectives help teachers inform students of their rights as citizens. Each objective is demonstrated through the use of one or more activities that help students experience the learning for themselves. Each activity consists of teaching procedures and student handouts. Section 1 is an examination of the Bill of Rights. Activities 1 through 3 define rights and give an overview of the Bill of Rights. Activity 4 discusses important U.S. Supreme Court decisions supporting constitutionally guaranteed rights. Religious freedom is the focus of activities 5 and 6, and activity 7 explores the rights of free speech. Activity 8 examines the balance between the public's right to know and other interests through a discussion of court cases pertaining to freedom of the press. The rights of peaceful assembly and demonstration are discussed in activity 9. Activities 10 and 11 look at the rights of the accused, emphasizing the protection against self-incrimination. Violations of human rights and the responsibilities of citizens that accompany civil rights are the focus of activities 11 and 12. The Thirteenth and Fourteenth Amendments are the subject of activities 14 through 20. A glossary is provided. (SM)

* Reproductions supplied by EDRS are the best that can be made *
* from the original document. *

FD 293763

America's Conscience:

An Educational Program
on the Constitutional Guarantees
Provided to Every American

"PERMISSION TO REPRODUCE THIS
MATERIAL HAS BEEN GRANTED BY

E. BLUMENBERG

TO THE EDUCATIONAL RESOURCES
INFORMATION CENTER (ERIC)."

U.S. DEPARTMENT OF EDUCATION
Office of Educational Research and Improvement
EDUCATIONAL RESOURCES INFORMATION
CENTER (ERIC)

☒ This document has been reproduced as
received from the person or organization
originating it.

☐ Minor changes have been made to improve
reproduction quality.

• Points of view or opinions stated in this docu-
ment do not necessarily represent official
OERI position or policy.

AIDL
American Institute of Democracy
and Liberty

Introduction

This educational program is about conscience. It is about America's conscience — the U.S. Constitution, and its protection of each American's individual freedoms.

As Americans, we take pride in our long tradition of human rights and freedom — a tradition that is formalized and expressed in the two-hundred year old American Constitution. And yet, in spite of our pride, and our long tradition, our guaranteed rights are frequently misunderstood, taken for granted and unused. It seems sometimes that only a vocal and noticeable minority invokes the protection of the Constitution. Slightly less than half of us don't even use our right to vote.

In response to this paradox, the Anti-Defamation League of B'nai B'rith offers this program to inform students of citizens' rights protected by the Constitution; to educate students about the importance and meaning of these rights; and to sensitize students to the certain dangers of losing them.

Overview of Program

This material is divided into two sections. Activities One through Thirteen explore the Bill of Rights; Activities Fourteen through Twenty examine the Thirteenth and Fourteenth Amendments — the so-called civil rights amendments.

There are seven educational objectives contained within this material. Each objective is demonstrated through the use of one or more activities that help students experience the learning for themselves.

As with any prepared material, you as the teacher are the best judge of what activities will work with your classes. The materials are designed to be used in sequence but lend themselves to use in ways that seem most appropriate for your students.

This kit provides you with all that is necessary to teach the lessons contained in it, although some of the lessons may call for additional research on the part of the students. A glossary contains all words that students are asked to define within the activities.

SECTION ONE

The Bill of Rights (Activities One through Thirteen)

Objective One: To inform students about the freedoms guaranteed by the Bill of Rights.

Objective Two: To encourage student thought and discussion concerning basic American freedoms and basic responsibilities.

Objective Three: To help students understand the record of world-wide and historical abuses that illustrate the necessity of these rights for a free society.

Discussion

We hear the term "rights" used every day. Politicians, newscasters, and speechmakers talk about human rights, civil rights, minority rights, women's rights, and children's rights. People march for their rights, insist on their rights and are sometimes denied their rights. "Read him his rights," says a policeman apprehending a suspect. "I know my rights," shouts an angry motorist, stopped for a seat belt violation. "You have no right to speak to me like that," insists a teacher to a sassy student.

But what, exactly, *are* our rights as Americans? The first thirteen activities in **America's Conscience** will help students define, identify and understand the concept of rights — the rights we extend to others, the rights we expect for ourselves and the rights guaranteed to us by the Law of the Land — The U.S. Constitution.

Method

Activity One: The Rights We Get; The Rights We Give

Before handing out the first activity, ask students how they define "rights." List these definitions on the board. Distribute Activity One and ask the class if the definition written in the activity encompasses their ideas about rights. Students should be given time to complete the questions in the activity, a task which they can do individually or in groups. Discuss the answers in class and tell the class that the rest of the activities in this program will explain our constitutional rights as Americans. As an optional activity, ask students to interview their parents about the rights parents think are most important — at work, at home, as citizens.

Activity Two: The Creed of A Great People

Discuss bill of attainder, ex post facto law and writ of habeas corpus. As the quotation appearing in the activity points out, the granting of these rights by state authority was the exception, not the rule. Emphasize with students how unusual it was at that time for any country to prohibit religious tests for public office and that in many countries, religious persecution was rampant. Ask students to answer the four questions on Activity Two. The answers are: 1) prohibition of bill of attainder; 2) prohibition of religious tests; 3) guarantees of writ of habeas corpus; 4) prohibition of ex post facto laws.

Activity Three: The Bill of Rights

Activity Three may be completed individually with later class discussion, or completed in class, with rights rewritten on the chalkboard.

Activity Four: About the Supreme Court

Activity Four explains to students how the Supreme Court interacts with the Constitution. The activity includes student research of five periods when the Supreme Court was involved in social and political controversy. A brief summary for each topic follows:

Marbury vs. Madison

William Marbury was appointed Justice of the Peace in the District of Columbia as one of the last acts of outgoing President John Adams. James Madison, the new Secretary of State under Jefferson, refused to deliver the documents appointing Marbury. Marbury, citing the Judiciary Act of 1789, asked the Supreme Court to force Madison to deliver the documents. The court instead decided that the Judiciary Act was unconstitutional. This represented the first time the court nullified an act of Congress. It established the Supreme Court as the final interpreter of the Constitution.

The Dred Scott Decision

Dred Scott was a slave taken by his master from Missouri (slave state) to Illinois (free state). From there he was taken to the Wisconsin Territory where slavery had been made illegal by the Missouri Compromise. Scott hoped to prove in court that living in a territory where slavery is illegal had made him a free man, even though he eventually returned to Missouri. The Supreme Court ruled that 1) slaves were not citizens; 2) the Missouri Compromise was unconstitutional; and 3) since Scott had returned to Missouri he was bound by the laws of Missouri. Many Republicans, including Lincoln, opposed the Court's decision. The decision was one of the factors that led to the Civil War.

Muller vs. Oregon

Between 1896 and 1908 many states had limited the work week for women to sixty hours. An employer in Oregon challenged that state's law limiting the daily hours of women's work to ten. The Court decided that the law was constitutional. This opened the way to further legislation protecting women workers.

Hammer vs. Dagenhart

In 1916, Congress passed the Keating Owen Act which prohibited the shipping of goods across state lines if children had been employed in making those goods. The Supreme Court ruled that the Keating Owen Act was unconstitutional because it "invaded the police power of the states." This decision left it to the states to pass laws regulating or prohibiting child labor. By 1930, 41 states had laws limiting child labor.

New Deal Legislation

The Supreme Court had opposed much of Roosevelt's early legislation of the New Deal. Those who supported the New Deal felt that the Court was creating needless obstacles that hindered the nation's economic recovery. Roosevelt proposed to expand the number of justices from nine to fifteen so that he could appoint sympathetic judges to the Court. Ultimately this idea was defeated. But shortly thereafter some conservative justices retired, some others shifted their views, and Roosevelt was able to implement his New Deal program.

Activity Five: The Wall of Separation (First Amendment)

Instruct students to organize into groups for research assignments. Each group should select one country from the list in Activity Five. Answers to question one appear below. The answer to question two is (b). In general, the answers to question three might

include: possibility of repression of other religions, being forced to pretend to believe something you don't, restriction of personal freedom, establishment of dictatorship by religious leaders, and civil war between religious factions. Question four will have varied answers.

Answers to Question One:

Iran (a)
India (b)
Israel (b)
Spain (d)
Italy (b)
England (d)
Soviet Union (c)
Poland (c)

Activity Six: Between Church and State (First Amendment)

Allow students time to read the introduction to this activity. Discuss any questions or comments students may have. Give students time to read and complete examples one through six. Review the answers below in class.

1. The state in this case was trying to enforce a "moral citizenry." This state action was unconstitutional.
2. The state was protecting the interests of the family and the legality of marriage. In this case, the state's action was found to be constitutional.
3. Blood transfusions are not always given over a patient's objections. In this case, since the young woman had dependent children, it was in the state's interest that the children continue to have the support of their mother. A patient in different circumstances might have had a different outcome.
4. Employees cannot be fired only for refusing to work on the Sabbath. The employer must attempt to make a "reasonable accommodation," to the employee's religious beliefs unless the employer would suffer undue hardship by accommodation of the employee. There is no clear

cut answer to this question. The answer depends on circumstances.

5. The state and the Board of Education were trying to encourage patriotism. However, the children's rights were violated. Freedom of speech includes freedom from coercion to speak.
6. The state interest was in mandating an educated citizenry. However in this case, the right of religious freedom took precedence.

Point out to students that as they can see from these examples, there are many possible interpretations of the sixteen words that guarantee religious freedom.

Activity Seven: Congress shall make no law ... (First Amendment)

In this activity, students will explore the limits of free speech. Before handing out Activity Seven list on the chalkboard any circumstances the class can imagine in which a person's speech could present a danger to other individuals or to society. In a separate chalkboard column ask the class to list the possible dangers resulting if government had unlimited rights to restrict speech and press. What abuses might result?

Distribute Activity Seven. Ask students to read the introductory quotation. Remind students that the Constitution is open to a multitude of interpretations and former Supreme Court Justice William Douglas represents one viewpoint. Ask students whether any restrictions they had listed in the first column on the board contrasted with Douglas' view. After concluding this discussion, students should complete Activity Seven.

Under current constitutional interpretation the correct answers to questions one through ten are:

1. P (protected as freedom of expression)
2. L (public safety more important than speech)

3. P (for the most part this has been protected)
4. L (deception is not protected)
5. L (a private citizen is entitled to more privacy than a public official)
6. P (this protects critics who might be sued by government officials. The court has ruled that unless a statement is made with reckless disregard for truth it is protected)
7. P (Court rejected any suggestion that citizen could be forced to take an oath)
8. L (this is limited to prevent elected officials from coercing government employees into campaigning)
9. P (the Court has upheld student's rights to express political beliefs)
10. L (the court recently ruled that any expression in school that could be "disruptive" is not protected)

Activity Eight: The Public's Right to Know (First Amendment)

This lesson asks students to explore the balance between the public's "right to know" and other interests. These are the points that should be mentioned during student reports to the class.

- John Peter Zenger was a printer who, in his publication, attacked the Royal Governor. He was brought to trial and the jury found in his favor. The issue was truth as an absolute defense against libel. There was no Supreme Court at the time.
- The government attempted to restrain publication of this series about decision-making during the Vietnam War, citing national security. The government did not prove its case and the Supreme Court ruled in favor of the *New York Times* which wanted to publish the papers.
- Myron Farber, a *New York Times* reporter, was jailed for forty days for refusing to disclose his notes and sources as he wrote about the trial of "Dr. X" in 1978. The trial concerned the deaths of hospital patients several years before. The prosecution contended that the

doctor had poisoned the patients with curare in order to make other doctors appear incompetent. The trial judge believed that Farber had important evidence concerning the case. This case was not heard by the Supreme Court.

- The case of *The Progressive* magazine represents the first time the government succeeded in prohibiting publication of a significant piece of journalism. The government claimed that the article would teach anyone how to make a nuclear bomb. Later, the ban on publication was lifted when testimony revealed that the information in the article was readily available from other sources. This case was heard in a federal district court in Wisconsin, not the Supreme Court.
- The actress sued the *National Enquirer* for making false statements about her. The principle involved was whether the publication had acted with malice and with reckless disregard for the truth. The actress won a large settlement from the jury that heard the case. The dollar amount was later reduced but the principle was upheld. This case was not heard by the Supreme Court.

Activity Nine: The Extremes of Speech (First Amendment)

Students are given two examples of emotionally-charged situations in which the right of free speech conflicts with equally cherished rights or beliefs. In the first example, students might mention the rights of Skokie residents to privacy and to respect for their beliefs. Jewish Skokie residents might have asserted the right not to be reminded of painful past memories. The Nazi marchers, of course, claimed the First Amendment rights of free speech and assembly.

In the second example, students might mention the rights of non-protestors to attend classes, to have

a peaceful campus and not to be unwilling participants in protests.

Solicit student opinions on whether they can think of any times when a person is obligated to protest. What form should a protest take and how far can it be carried without violating other important rights?

Students look once again through the Bill of Rights and list the amendments that protect those accused of a crime. These amendments are four, five, six, seven and eight.

The answers to the questions in Activity Ten are:

- a) 6 d) 6
- b) 4 e) 5
- c) 6 f) 7

The class discussion question will have several right answers. Students might mention that the victim has rights to confront the accused, to obtain compensation if possible, to see the guilty party punished. The accused has the right to every protection in the Bill of Rights. Society has the right to expect that citizens will be safe and that justice will be carried out. During class discussion, make sure that students understand that not everyone accused or even convicted of a crime is guilty. Our system assumes that the accused is innocent, until a judge or jury hears all the evidence and determines guilt.

Students will discuss the right against self-incrimination in greater detail. Explain to students this right has been interpreted broadly by the Supreme Court. This means that people cannot be persuaded through threats, promises or sympathy to waive their Fifth Amendment rights. Their personal papers and diaries are considered protected as well. The answer to all of the statements in this activity is "no."

It is common for Americans to take their rights for granted. The purpose of Activity Twelve is to demonstrate to students the importance of these rights in preventing abuses by those in power. Ask groups of students to research one of the topics listed in Activity Twelve and designate one member to report to the class. During reports students should become aware that every constitutional amendment protecting the rights of the accused is violated when human rights are abused. Ask students what they think would happen if even one of these rights was preserved while all others were being violated. In the last example, the rights of Japanese Americans were violated as part of a strong wave of prejudice against the Japanese following the bombing of Pearl Harbor. In recent years there have been attempts at restitution on the part of the U.S. government.

In this activity concepts of "right" are balanced with the idea of "responsibility." In class discussion students may mention the following responsibilities of citizenship under each statement of rights: a) Stay informed. Make time to vote. b) Practice safety. c) Be willing to listen to others. d) Take responsibility for problem-solving. Donate money to causes you believe in. e) Watch and read the news. Express opinions. Write letters.

SECTION TWO

Objective Four: To inform students about the provisions of the Thirteenth and Fourteenth Amendments.

Objective Five: To help students understand the importance of the concepts **due process** and **equal protection**.

Objective Six: To help students understand the psychological and societal impact of discrimination.

Objective Seven: To help students achieve greater understanding of current constitutional battles waged in their communities and/or the nation.

This activity discusses the right to equal housing opportunity. Questions two and three will have different answers depending on the local community. Definitions for the tactics listed in question one are found in the glossary.

Three key phrases are singled out from the Fourteenth Amendment. They are **due process**, **equal protection**, and a citizen's **privileges and immunities** which must be guaranteed by the state government as well as the federal government.

In example one the principal violates **due process**. The rules are vague and there are no **procedural safeguards** for students who are to be punished. In other words, nothing in the rules informs students of how to appeal the principal's decisions. The principal may also be violating students' rights to **free expression**. Ask students to refer to Activity Two. What constitutional protection is violated if the principal punishes students who distributed a paper before the rule was passed? Remind students of the prohibition against *ex post facto* laws.

In example two, the community violates the **equal protection** clause since all parts of the property are not available to all.

In example three, like the principal, the police chief violates the First

Amendment (**free speech**) and the **due process** clause of the Fourteenth Amendment.

In the fourth example, municipal employees are denied **equal protection**, and their rights to **due process** and **religious freedom** are violated.

These activities discuss the right of every American to equality of educational opportunity. Distribute both activities at the same time. Quotes from the Supreme Court's 1954 decision in **Brown vs. the Board of Education, Topeka, Kansas**, appear in Activity Seventeen. To enhance student understanding of these activities, encourage them to look up the meaning of the four words listed in Activity Sixteen before beginning. Working definitions of these words are found in the glossary.

The decision of the Supreme Court was based on the equal protection clause of the Fourteenth Amendment. The Justices, in a unanimous decision, believed that segregation harms the country by undermining the foundation of good citizenship. Further, separate education of black children creates an inherently inferior education that retards their potential, affects their feeling of self-worth and confidence and does psychological damage.

This activity requires students to think about the possible psychological damage done when an individual is denied rights unfairly. Help students through the imagination process in a series of steps that will make the experience more real for them. For example, if looking for an apartment, students would imagine looking through the paper for an apartment, calling for an appointment to see it, seeing the apartment and discovering it has everything required, deciding to rent it and then being turned down because of discriminatory attitudes on the part of the

owner. It will be easier for students to imagine their feelings if they use concrete and specified steps.

This activity discusses the use of quotas—a remedy for discrimination that has been called “reverse discrimination.” Also discussed is affirmative action—a policy in which race, sex, ethnic origin or religion are given special consideration in employment or admissions.

Question one will allow students to analyze the differences between quotas and affirmative action and to learn more specifically what each involves. Question two mentions other remedies to discriminatory practices. Question three will have varied answers.

This activity is intended to move the class toward a greater awareness of and sensitivity to constitutional issues of local or national importance. As the class reads the paper every day to find issues, they will become aware of how much the Constitution continues to influence the lives of Americans.

Affirmative action: Giving special consideration to members of groups who have historically been victims of discrimination.

Bill of attainder: Legislation to punish or convict a specific individual in lieu of a trial.

Blockbusting: An effort to stimulate panic selling of real estate and white flight when minorities move into a neighborhood.

Civil rights laws: Laws enacted to redress past discrimination and guarantee equal treatment and human rights.

Defendant: The object of a lawsuit, a person accused of civil or criminal wrongdoing.

Discrimination: The practice of keeping certain groups, such as ethnic, religious or racial minorities, out of jobs, neighborhoods, schools, etc. An act of exclusion prompted by prejudice.

Exclusionary rule: Rule stating that if evidence is improperly obtained by the police or prosecution, it cannot be used in court.

Ex post facto law: A law declaring an action or a behavior criminal subsequent to its having been committed.

Miranda rule: Rule stating that suspects must be informed of their rights to remain silent and to have a lawyer present during police questioning.

Plaintiff: The complaining party in a lawsuit; the one who begins a lawsuit to seek remedy for injury to rights.

Quotas: A specific number or percentage of places set aside for minorities in education, employment or housing.

Redlining: Denial of credit or insurance by lenders or insurers on the basis of the racial or economic composition of an area.

Segregation: The separation of the races.

Steering: Practice where black and white home-seekers are directed toward neighborhoods in a way that will maintain ethnic and racial homogeneity.

Tangible: That which can be touched or seen, a material object.

White flight: When whites leave a neighborhood as minorities enter.

Writ of habeas corpus: A legal document used to get someone released from improper imprisonment when they are being imprisoned without being charged with a crime.

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
CHIEF JUSTICE BURGER
RETIRED

AMERICA'S CONSCIENCE: THE CONSTITUTION IN OUR DAILY LIFE

PREFACE

A mere 15 of the world's existing 162 constitutions were written before World War II, and none pre-dates our own. In fact, three-fourths of those who have written constitutions are still living. This track record shows clearly that no constitution, however artfully constructed, will work unless it is supported by a people who understand what the document means and who are committed to making it work. The citizenry must know and appreciate the significance of expressions such as "freedom of speech" and "equal protection" and concepts like separation of powers, checks and balances, and federalism. This educational program, America's Conscience: The Constitution in Our Daily Life, will help youngsters better understand their Constitution.

Leaders of revolutionary movements in other countries have shown that, like our forefathers, they could plan and fight a revolution; but the early leaders of our country had another even more important talent: they planned and created a government that has provided for more freedom and opportunity than any other government in history. But words on a piece of paper are only as good as the values and commitment instilled in each new generation. Historian David E. Lilienthal said, "What the Constitution or laws provide about free press and free conscience is not as important as what the spirit of the people provides." As long as our schools and other groups emphasize the principles fundamental to our system of government and our guarantees of freedom, we will continue to have the liberties and opportunities it provides.

Wm. F. Burger

LYNNE IANNIELLO
Director, Communications Division

NEWS

FOR IMMEDIATE RELEASE

New York, NY, Jan. 19....The rights guaranteed by the U.S. Constitution are "frequently misunderstood, taken for granted and unused," according to a new curriculum produced by the Anti-Defamation League of B'nai B'rith for use in secondary schools.

Entitled "America's Conscience: The Constitution in Our Daily Life," the curriculum is aimed at educating junior and senior high school students on the importance of constitutional rights and warn against "the certain dangers of losing them." It is part of a series of ADL educational packets developed to enhance understanding and appreciation of America's democratic way of life.

The attractively packaged red, white and blue kit consists of twenty separate classroom activities dealing with the Bill of Rights, the Thirteenth and Fourteenth Amendments, discussion suggestions, and a glossary of related terms.

According to Donald R. Mintz, chairman of ADL's Intergroup Relations Committee, "the objective of the section on the Bill of Rights is to encourage student analysis of basic American freedoms and responsibilities against the record of worldwide and historical abuses of individual rights. Among the objectives of the section on the Thirteenth and Fourteenth Amendments are helping students understand due process, the psychological and societal impact of discrimination,

(more)

Our 75th Year



and the meaning of current constitutional battles waged in their own communities and nationally."

The issues and events dealt with in the curriculum include separation between church and state, what is permissible under free speech, rights of the accused, the Fifth Amendment, Supreme Court decisions such as Brown v. the Board of Education of Topeka, Kansas, quotas and affirmative action.

In a preface for the curriculum, former Chief Justice Warren E. Burger asserts that citizens must know and appreciate the significance of such concepts as freedom of speech, equal protection, separation of powers, checks and balances and federalism. "But words on a piece of paper," he goes on, "are only as good as the values and commitment instilled in each new generation."

To drive home the significance of the Constitution in every American's life, the League has also created and is distributing for classroom use a Living Constitution Poster Series. The series, 16 posters together with a teaching guide, addresses such issues as the right to an attorney, racial segregation and self incrimination at trials.

To illustrate freedom of religion, one of the posters shows 17th century Pilgrims going to worship; to help students appreciate the protection against self incrimination, another depicts a witchcraft trial early in this nation's history; to epitomize freedom of the press, a poster shows the burning of John Peter Zenger's journal in pre-Revolutionary times.

The poster series can be obtained at \$24.95 plus \$2.50 for shipping and handling; the "America's Conscience: The Constitution in Our Daily Life" curriculum is available at a special introductory price of \$10 -- both from ADL, 823 United Nations Plaza, New York, NY 10017.

#

AJ,MPED-A,TPED-A,BHED-A-88



AMERICA'S CONSCIENCE

The Constitution In Our Daily Life

ACTIVITY

1

The Rights We Get; The Rights We Give

Rights: A just and fair claim to anything; power or privilege belonging to a person by law, nature or tradition; that to which one has a just claim.

Most of us have unspoken expectations about how we should be treated and how we should treat others. Most of us feel we have a "just claim" to be treated in a certain way because of tradition, who we are, or our position.

This activity asks you to think about and define your rights throughout the many parts of your life.

► To help you organize your thoughts, answer the following questions on the back of this paper, or on a separate sheet of paper.

1. *School*

Do you have rights in school? What rights do you want your teachers to give you? What rights do you want other students to give you?

2. *Family*

Do you have rights within your family? What rights do you want your parents to respect? What rights do you want other family members to respect?

3. *Relationships*

Think about your relationships with friends. What rights do you have that you expect your friends to honor?

4. *Work*

In your job situation, do you feel you have rights? What are your rights at work?

5. List the rights of others that you respect in school, at home, with friends and at work.

6. Have you ever been in a situation in which your rights were not respected? What was the result?

After this activity is completed you will have a list of the unwritten rights and rules that govern conduct between you and other people. These rights may not have the force of law behind them; they may be simply agreements between you and others, subject to change.

This educational program is about your legal rights listed within the U.S. Constitution. It is about your "inviolable" rights, given to all Americans as a birthright and privilege of citizenship.





AMERICA'S CONSCIENCE

The Constitution In Our Daily Life

ACTIVITY

2

"... The Creed of a Great People"

On the continent of Europe at the beginning of the seventeenth century absolute monarchy had everywhere triumphed . . . never perhaps were the ideas of right more completely overlooked than in the midst of the splendor and literature of Europe: never was there less political activity among the people; never were the principles of true freedom less widely circulated; and at that very time those principles which were scorned or unknown by the nations of Europe were proclaimed in the deserts of the New World and were accepted as the future creed of a great people.

*Alexis de Tocqueville, 1835
Democracy in America*

As the introductory quotation reminds us, Americans were unusual in their insistence on personal rights and freedom. Many of our protections from tyranny and unjust authority were written into the body of the Constitution and are unknown in many countries of the world even today. Article One, Section Nine of the Constitution guarantees the privilege of the **writ of habeas corpus**. Habeas corpus means that a person cannot be held secretly in prison and must be released if not charged formally with a crime. This same section also prohibits Congress from passing **bills of attainder**—orders that single out individuals for punishment without a trial.

Also forbidden by this section is the passing of **ex post facto laws**. This means that a person cannot be charged with a criminal act unless the law existed before the action was committed. Article Three, Section Two of the Constitution requires **trial by jury** for all crimes except impeachment. Article Six, Section Five was highly unusual for the time. It states: "**No religious test** shall ever be required as a qualification to any office or public trust under the United States."

► To test your understanding of these concepts discuss in class which protection of the Constitution prohibits each of the following actions.

1. Because it is presented with overwhelming evidence, Congress passes a bill declaring that a named citizen is a spy. The citizen cannot be brought to trial because he is now living in another country. The bill declares that if this citizen returns to the United States he will be executed.
2. Congress passes a law which states that a person seeking elected office must state his or her religion. It doesn't matter what the religion is, but the office seeker must make it known.
3. The police arrest and jail a well-known organized crime figure because they believe he has threatened someone's life. The police have no evidence against him and cannot charge him but they want to protect the threatened individual.
4. Congress hears evidence that a certain small political group wishes to overthrow the government and has a nuclear bomb. Fearing that national security is at risk, Congress passes a law outlawing the group. The police arrest anyone who has ever belonged to the group, now or in the past.

Having lived through monarchy and repression, the founding fathers wanted to create a society where unpopular minority beliefs could be expressed without fear of punishment; a society where unjust authority could not terrorize the powerless. Americans wanted protection from possible abuses by the new government. Despite the constitutional protections just discussed, many citizens wanted a stronger statement of rights. In response to this demand the first ten amendments to the Constitution, known as the Bill of Rights, were added in 1791.





AMERICA'S CONSCIENCE

The Constitution In Our Daily Life

ACTIVITY

3

The Bill of Rights

Printed on this page are the first ten amendments to the Constitution. On a separate sheet of paper list the rights you believe each amendment gives you. For example, under the First Amendment you might state: "I have the right not to belong to any religion at all" or "I have the right to observe my religion on any day of the week, not just Saturday or Sunday."

► Rewrite each of these amendments in a less formal and more personal style. There is no one right answer to this activity and each person in class may have different answers.

Amendment I. Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

Amendment II. A well regulated militia, being necessary to the security of a free State, the right of the people to keep and bear arms, shall not be infringed.

Amendment III. No soldier shall, in time of peace be quartered in any house, without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

Amendment IV. The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Amendment V. No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Amendment VI. In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor and to have the assistance of counsel for his defense.

Amendment VII. In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise reexamined in any court of the United States, than according to the rules of the common law.

Amendment VIII. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Amendment IX. The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people.

Amendment X. The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.





AMERICA'S CONSCIENCE

The Constitution In Our Daily Life

ACTIVITY

4

About the Supreme Court

Before studying the Bill of Rights in more detail, it will be important to understand the role of the Supreme Court. You have discovered that people can interpret the words of the Bill of Rights in different ways. Just as each person in your class might have interpreted each amendment differently, so too have ordinary American citizens.

Over the years, the words of the Constitution have remained the same and yet what we consider to be "constitutional" or "unconstitutional" has changed. The writers of the Constitution knew that as the world changed, new questions would arise. They created the Supreme Court to apply the words of the Constitution to any new question and situation.

Have you ever heard someone say "I'm going to take this case all the way to the Supreme Court if I have to?" In fact, very few cases go all the way to the Supreme Court. The Supreme Court hears cases that have already been heard in other courts. When one party or another is dissatisfied with a decision by the state courts or federal courts they can appeal that decision to the next highest court. The Supreme Court is the "court of last resort." It may take years for a case to move through all the lower courts until it can finally be heard by the Supreme Court. Even after a case has completed the journey through the lower courts the Justices themselves decide whether they will hear it or not. When a citizen presents a case to the court, the court can refuse to hear it, thereby leaving in place the lower court decision. If the Justices do hear the case, they can act in one of three ways. They can: a) affirm (uphold) the decision of the lower court; b) reverse (change) the decision of the lower court; or c) remand (send back) the decision to the lower court for reconsideration.

The nine Supreme Court Justices are appointed by the President with the consent of the Senate and are often identified with one political philosophy or another. Some judges are viewed as liberal and others as conservative. Because the Court frequently makes decisions about some of the most heated and emotional issues of an era, there have been many times when it was at the center of controversy. In this activity you are asked to research some of those times.

► Listed on this page are some controversial issues that have been heard by the Court. Divide into groups and choose one topic. Research the topic and answer in class the questions that follow.

Topics to Research

Marbury v. Madison 1803
(Thomas Jefferson fights with the Court)

The Dred Scott Decision 1857
(slavery in the American territories)

Muller v. Oregon 1908
(female labor laws)

Hammer v. Dagenhart 1918
(child labor laws)

New Deal Legislation 1930s
(Franklin D. Roosevelt and the Court)

► For each topic answer the following questions:

1. What were both sides of the issue that was before the Supreme Court?
2. How did the Court decide on the issue?
3. What were the political and/or social repercussions of this issue?





AMERICA'S CONSCIENCE

The Constitution In Our Daily Life

ACTIVITY

5

The Wall of Separation (First Amendment)

Although they came to the New World for religious freedom, many of the colonists built religion into their laws. They made church attendance mandatory and prescribed severe punishment for those worshipping God with different rituals. Their descendants, one hundred years later, built "a wall of separation between church and state" with the First Amendment phrase, "Congress shall make no law respecting an establishment of religion or prohibiting the full exercise thereof . . ."

Citizens have debated the meaning of this principle since it was made law. The idea of separating church and state was unique at the time that the U.S. Constitution was written. Even today, the American attitude of official neutrality toward all religions is unusual. Some countries have constitutional guarantees of separation but in practice things work differently. Other countries have official state religions. Still others prohibit religious practice. To help you understand the importance of our First Amendment guarantee, this activity will examine the balance between the religious and the secular that exists in a variety of countries around the world.

► To begin, organize into small groups according to your teacher's instructions. Choose one of the following countries as the focus for your group. Research the country you have chosen by answering the questions that appear after the list of countries.

Iran	Israel
England	Poland
India	Spain
Soviet Union	Italy

1. Choose the category that best describes your country.
 - a) Religious leaders control the state and restrict other religions.
 - b) Religious freedom is guaranteed but religion is sometimes an issue.
 - c) The state discourages the free exercise of religion.
 - d) The state has an established religion but permits full freedom of worship to any group.
2. Which of the above categories best describes the American system?
3. Are there dangers in any of these systems? List all possible dangers under each system and explain how our First Amendment protects us from these problems.
4. In your opinion, how important is America's religious freedom?





AMERICA'S CONSCIENCE

The Constitution In Our Daily Life

ACTIVITY

6

Between Church and State

The writers of the Constitution were highly aware of the history of war and bloodshed brought about by religious zeal and bigotry. Determined to save the country from these trials, the founding fathers declared that the new government must be neutral toward all religions.

Neutrality toward all religions does not end with the freedom to worship. There are many points at which an individual's religious beliefs may conflict with the laws and interests of society. For example, the government's interest is to maintain an educated, healthy, patriotic and moral citizenry. It must also maintain a national defense. The religious belief of an individual may sometime be at odds with one or more of these state interests. The following are examples of issues over which the state and individual conscience have come into conflict.

► On the back of this paper, or on a separate sheet of paper, answer the questions after each example. Consider the First Amendment and the principle of "separation of church and state" in your answers.

1. A Pennsylvania law required students to recite at least ten verses from the Bible at the beginning of each school day. What was Pennsylvania trying to accomplish with this rule? Do you think the state's action was constitutional?
2. In 1878, a member of the Mormon Church took two wives in spite of a state law against polygamy. He stated that his religion required him to have more than one wife. The state court found him guilty of polygamy. Who or what is protected by state government laws against polygamy? Do you think the state's action was constitutional?
3. Doctors predicted that a young mother was going to die unless given blood transfusions. She refused treatment stating that her religion prohibited transfusions. The hospital obtained a court order and transfusions were given despite her objections. Can you think of reasons why the hospital acted as it did? Do you think the hospital violated the mother's rights?
4. A city employee was fired for refusing to work on his Sabbath although he was willing to work an equal amount of time on any other day. Do you think his constitutional rights were violated?
5. School children in West Virginia were suspended for refusing to salute the flag. They said their religious beliefs prohibited this type of action. What was the school board trying to accomplish? Did the school violate the constitutional rights of these children?
6. Amish residents of Wisconsin were prosecuted by the state because they refused to send their children (ages 14 and 15) to the public high school as required by the state's compulsory attendance law. Why does a state government require all children to attend school? In your opinion does religious freedom take priority over the state's wishes in this case?





AMERICA'S CONSCIENCE

The Constitution In Our Daily Life

ACTIVITY

7

"Congress shall make no law . . ."

Accordingly a function of free speech under our system of government is to invite dispute. It may indeed best serve its high purpose when it induces a condition of unrest, creates dissatisfaction with conditions as they are, or even stirs people to anger. Speech is often provocative and challenging. It may strike at prejudices and preconceptions and have profound unsettling effects as it presses for acceptance of an idea.

That is why freedom of speech, though not absolute, is nevertheless protected against censorship or punishment, unless shown likely to produce a clear and present danger or a serious substantive evil that rises far above public inconvenience, annoyance or unrest. There is no room under our Constitution for a more restrictive view.

*Justice William O. Douglas
Terminiello v. Chicago*

Although the First Amendment states "Congress shall make no law . . . abridging the freedom of speech or press," a majority of Supreme Court Justices have held the view that the government may regulate speech and press in certain circumstances to protect important public interests.

► Read the following examples. Write "P" next to any activity that you feel should be protected under the First Amendment. Write "L" next to an activity that you feel society should have the right to limit. Give a brief reason why you answered as you did. After you have written your opinion your teacher will tell you what the Supreme Court has said about each example.

1. An individual wears a jacket or shirt displaying an obscene word or phrase. _____
2. An individual shouts fire in a situation that would cause panic. _____
3. A store owner sells pornographic material to adults. _____
4. A company makes radio or television commercials that deceive the public. _____
5. A newspaper publishes an untrue statement that damages the reputation of a private citizen. _____
6. A newspaper publishes sharp verbal attacks on the job performance and personality of a government official causing humiliation to the official. _____
7. Students refuse to recite the Pledge of Allegiance in class. _____
8. A government employee campaigns actively for a political candidate. _____
9. Students wear armbands to class to protest nuclear arms. _____
10. A high school student gives a campaign speech that uses sexual innuendo and double meanings. _____





AMERICA'S CONSCIENCE

The Constitution In Our Daily Life

A C T I V I T Y

8

The Public's Right to Know

Over the years the Supreme Court has decided that fairness and the protection of certain national interests require limits on press freedom. They have set forth the following principles:

- Individual privacy and the protection of minors may be more important than "the public's right to know." Therefore, the names of victims of sexual assault and those of juvenile lawbreakers are not reported.
- Editors and reporters cannot publish or air stories that they know are false. But *public* figures and officials cannot collect damages even for false and negative statements made about them unless they can prove "actual malice." The public figure must prove those who made the statement did so with the knowledge that it was false or with "reckless disregard for the truth."
- Reporters covering criminal cases can be forced to disclose the names of people from whom they obtain information if the information appears necessary for a fair trial. Reporters have argued that people would not trust them unless they were guaranteed confidentiality. The Supreme Court decided that the obligation of all citizens (including reporters) to testify regarding criminal conduct was more important than laws protecting a reporter's sources.
- When judges believe that too much publicity will endanger a defendant's right to a fair trial, the press can be barred from covering certain criminal trials.
- In extremely rare cases, the government can stop publication of a story if national security is said to be at stake.

► Some of the best known cases relating to freedom of the press are listed below. Following your teacher's directions, separate into groups and choose one of the following cases to research.

The trial of John Peter Zenger (1735)

The Pentagon Papers (1971)

The Case of "Dr. X" and *The New York Times* (1978)

The Progressive magazine and the hydrogen bomb story (1979)

Carol Burnett and the *National Enquirer* (1981)

► Present an oral report to the class that answers these questions:

1. What are the facts of the case you have researched?
2. What freedom of press issue was involved? (See principles listed in this activity.)
3. Was this case ever heard by the Supreme Court? If so, what was the Court's decision? If not, what was the decision of the lower court?





AMERICA'S CONSCIENCE

The Constitution In Our Daily Life

ACTIVITY

9

The Extremes of Speech

We are reminded by Justice Douglas's statement as quoted in Activity 7, that freedom of speech can make us uncomfortable or angry. Freedom of speech may force us to defend and question our own beliefs. In extreme instances we may debate whether any person *should* have the right to say such unpleasant and provocative things to others.

► In these examples the right of free speech conflicts with the strongly held beliefs, the privacy or the painful memories of individuals or groups.

Consider both examples carefully and answer the questions after each one.

1. Skokie, Illinois is a suburb of Chicago with a population that includes several thousand Jewish survivors of World War II concentration camps. In 1977, a group of self-proclaimed Nazis requested a permit to march in front of the Skokie village hall dressed in Nazi uniforms. Skokie responded by:

- temporarily stopping the march by court order.
- passing ordinances which prohibited passing out material that would incite hatred and prohibited the wearing of "military-style" uniforms during any public demonstration.

The Nazis filed suit claiming that Skokie's new ordinances were unconstitutional. A federal court of appeals and the Illinois Supreme Court both ruled that the Nazi march was protected by the First Amendment. The federal court added, "We would hopefully surprise no one by confessing our personal views that the Nazi Party's beliefs and goals are repugnant to the values held generally by residents of this country."

- A. What rights of Skokie residents were at issue in this case?
- B. What rights of the Nazis' were at issue?
- C. Consider the Court's statement at the end of the example and decide whether it is true. If it is true, why did the Court find it necessary to protect the free speech of Nazis? Do you agree or disagree?

2. One of the first American universities to experience widespread student protest was the University of California at Berkeley in 1964. Students were prohibited from soliciting for political causes on campus. Many felt their free speech rights were being violated. Calling themselves the Free Speech Movement (FSM), students protested by "sit-in" at campus administration offices until they were forcibly removed by campus police. When 800 students moved into a campus building one night they were arrested. Within a short time, 5,000 students gathered for a demonstration. Of course, these tactics disrupted the routine of the 27,000-member university community.

The tactics from civil rights struggles were used by other students around the country to protest America's involvement in Vietnam — sit-ins, non-violent confrontation, marches and symbolic illegal acts such as the burning of draft cards led to disciplinary action and arrest for many students.

In 1987, protest on campus focuses on American foreign policy in Central America and South Africa. Protestors have erected shantytowns on campus to symbolize the poverty of South African Blacks. Other students have protested American policy in Central America through sit-ins and obstructing traffic.

- A. While protestors feel justified in the tactics they use, what objections might be raised by those not involved in the protest — such as other students, faculty, administrators, and people outside the campus?
- B. Do you believe expressions such as sit-ins, the building of shantytowns and the disruption of campus routine are protected by the First Amendment? Do Americans have an obligation to protest if they feel injustices are being committed?
- C. In your opinion, how can the rights of protestors and the rights of those not involved in protest be balanced? Is the right of free speech at risk when restrictions are placed on protests? How far should protest be allowed to go? Should violent acts ever be considered protected speech?





AMERICA'S CONSCIENCE

The Constitution In Our Daily Life

A C T I V I T Y

10

Rights of the Accused

► Some of the first ten amendments protect the rights of those accused of criminal acts. Refer once again to Activity Three (The Bill of Rights). List the numbers of the five amendments that protect criminal defendants.

_____	_____
_____	_____
_____	_____

► Next to each principle below, fill in the number of the amendment that provides protection for the accused.

- a. The accused has the right to speak with a lawyer at all stages of criminal cases. _____
- b. The prosecution is not allowed to use evidence or testimony obtained illegally by police. _____ (exclusionary rule)
- c. The police must inform suspects that they have the right not to answer questions and to speak with a lawyer before questioning. _____ (Miranda rule)
- d. Evidence that favors the accused must be disclosed by the prosecution. _____
- e. A person cannot be put on trial twice for the same crime, if found not guilty the first time. _____
- f. The accused has the right to a jury trial. _____

Protection of American freedoms requires balancing the rights of several groups. For example, every criminal case generally involves three parties:

The victim
The accused
Society

► On the back of this paper note at least two rights that each of these parties might demand or expect in a crime situation. During class discussion describe how some of these rights might conflict with each other. How would you prioritize the rights of these parties?





AMERICA'S CONSCIENCE

The Constitution In Our Daily Life

ACTIVITY

11

Taking the Fifth

The privilege against self-incrimination registers an important advance in the development of our liberty — one of the great landmarks in man's struggle to make himself civilized. . . . It reflects many of our fundamental values and most noble aspirations . . . and our realization that the privilege, while sometimes a shelter to the guilty, is often a protection to the innocent.

*Mr. Justice Goldberg
delivering opinion of Court in
Murphy v. Waterfront
Commission
of New York Harbor*

Perhaps none of the rights protecting the accused is as misunderstood as that one granted by the Fifth Amendment — the right to refuse to be a witness against yourself.

Frequently, the reactions to people who refuse to testify are, "If they have nothing to hide why don't they tell the truth," or "They must be guilty, otherwise they would answer."

Refer to the quotation that begins this activity. Frequently, we have to be reminded that the privilege offers "protection to the innocent." In many countries of the world, those accused of a crime are forced into false confessions through inhumane methods. Without the Fifth Amendment, the right to privacy of home and person, so cherished by Americans, might be greatly reduced or lost.

Over the years, the Supreme Court has set limits on methods of interrogation used by police, prosecutors and Congress.

► Discuss the following circumstances in class. Considering the Fifth Amendment, give your opinion as to whether investigators are allowed to use these tactics when questioning a suspect or investigating a crime. Write "yes" or "no" next to each statement.

- a. Police investigators seize the private diaries and letters of the accused. _____
- b. Police tell a suspect he cannot call his wife unless he confesses. _____
- c. A suspect is held in jail until he confesses. _____
- d. A suspect is threatened with torture or physical harm unless he talks. _____
- e. A prosecutor says he is very concerned for the comfort and safety of the accused. Without allowing the accused to consult an attorney, the prosecutor promises that the accused will get a lighter sentence if he pleads guilty. _____



AMERICA'S CONSCIENCE

The Constitution In Our Daily Life

ACTIVITY

12

The Abuse of Human Rights

The writers of the Constitution insisted on clearly defining the rights of citizens because of their knowledge and personal experience with human rights abuses.

The United Nations has proclaimed that all human beings have rights to life, liberty and security of person; to be free of torture, or degrading and cruel treatment; to be protected from arbitrary arrest, detention or exile; to be free of slavery or servitude; to be recognized as a person before the law. In the past and today, many countries in many circumstances violate these human rights ideals.

► Follow your teacher's instructions for dividing into groups and select one of the topics below for further research.

1. Jews and other non-Catholics during the Spanish Inquisition
2. Opponents to the government of Argentina during the 1970s
3. Dissidents in the USSR
4. Blacks in South Africa
5. City dwellers, intellectuals and the middle class in Cambodia during Pol Pot's regime
6. Relocated Japanese-Americans during World War II after the bombing of Pearl Harbor

► Each topic identifies groups whose rights were violated by the larger society in which they lived. Discuss how their rights were violated. What safeguards in our Constitution usually protect Americans from these kinds of human rights abuses? How do you explain example six in which the civil and human rights of Americans were violated on a large scale?





AMERICA'S CONSCIENCE

The Constitution In Our Daily Life

ACTIVITY

13

The Responsibilities and Obligations of Citizenship

Responsibility: A duty or obligation; a person or thing to which one must answer.

In any situation in which we have rights we also will have responsibilities. This is true in our lives as family members, students and friends as well as in our lives as citizens and Americans.

► As we discussed in Activity One, rights are often granted by other people. Think about the rights listed in this activity. On the blank lines provided, list any responsibilities that go along with the right. Discuss the answers in class.

Rights

Responsibilities

1. The right to use the family car on Friday nights.
2. The right to participate in extra-curricular activities at school.
3. The right to share problems and confidences with friends.
4. The right to use a credit card.
5. The right to choose the best career for yourself.

Class Discussion

What would happen to any of these rights if the responsibilities were neglected? We must carry out certain responsibilities in our personal lives or we may lose our rights. This is also true of our rights as Americans. Americans have a high degree of personal and political freedom, but many choose not to exercise the responsibilities of freedom.

► Discuss in class the responsibilities attached to each of the rights listed here:

- A) The right to vote
- B) The right to bear arms
- C) The right of free speech
- D) The right to petition for a redress of grievances
- E) The right to know what your government is doing





AMERICA'S CONSCIENCE

The Constitution In Our Daily Life

ACTIVITY

14

The Right to a Home of One's Own (Thirteenth Amendment)

Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

Section 1,
Thirteenth Amendment.

In addition to the Bill of Rights, other parts of the Constitution protect citizens from injustice. The Thirteenth Amendment applies to the way Americans treat each other. No citizen or state authority can enslave or imprison another human being unless that person has been "duly convicted" of a punishable crime. This amendment was, of course, used to eliminate slavery from the United States. The amendment has been used in other ways as well.

One of the most cherished rights of Americans is the right to live where one pleases; the right to save money and buy a home; the right to own property. For many years this right was not given equally to all Americans. Many Americans were victims of **restrictive covenants** — agreements in certain neighborhoods that sellers would not allow Blacks or Jews to buy property. In the 1960s a black couple, the Joneses, answered a newspaper ad for a home in Paddock Woods, a neighborhood in St. Louis County. They found a home that met their needs and were prepared to buy. However, Alfred H. Mayer Company, owner and developer of Paddock Woods, refused their offer because of their policy of not selling to Blacks. Mr. and Mrs. Jones sued the developer. This landmark case was decided in the Supreme Court in favor of the Joneses.

In this case discrimination in housing was found to be unconstitutional on the basis of the Thirteenth Amendment. The Supreme Court declared in 1968: "At the very least, the freedom that Congress is empowered to secure under the Thirteenth Amendment includes the freedom to buy, the right to live wherever a white man can live. If Congress cannot say that being a free man means at least this much, then the Thirteenth Amendment made a promise the nation cannot keep."

Since that time certain principles of fair and open housing have become firmly established.

Questions for Discussion

1. The road to fair housing has not been smooth. Real estate agents, sellers, banks and insurance companies have sometimes put obstacles in the way. Some of these obstacles are listed below. Write definitions for each one on the back of this paper or on a separate sheet of paper. Describe how each of these activities denies equal housing opportunities to some Americans.
Redlining
Steering
Blockbusting
White flight
2. Many communities have agencies that handle fair housing complaints. Locate the fair housing agency near you and find out what types of complaints are common in your area.
3. Think about the racial composition of your neighborhood and local community. Does it appear that fair and open housing is a fact where you live? If not, what do you think causes the type of housing patterns predominant in your community?





AMERICA'S CONSCIENCE

The Constitution In Our Daily Life

ACTIVITY

15

Equal Protection for All Citizens (Fourteenth Amendment)

No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any state deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

Section 1,
Fourteenth Amendment

The Thirteenth Amendment defines the way we must treat each other. The Fourteenth Amendment sets limits on how state authorities treat us. The states are not free to deny employment, housing, or education to a person on the basis of race, color, religion, sex, handicap or national origin. In this activity we will analyze the phrases of the Fourteenth Amendment that offer protection from state government abuses.

Phrase	Meaning
"No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States..."	The Fourteenth Amendment ensures that the privileges and immunities guaranteed by the Bill of Rights cannot be taken away by the state government.
"Nor shall any state deprive any person of life, liberty or property without due process of law..."	States are required to use legal and fair procedures to convict a person of a crime or to punish that person.
"Nor deny to any person within its jurisdiction the equal protection of the laws."	All rules must be the same for everybody.

The term **state** includes within it organizations that are part of the state such as city governments, county governments, and city and state boards of education.

► Read the hypothetical examples that appear on this page. In each example, tell how the Fourteenth Amendment is being violated. (Keep in mind the definitions of each part of the amendment that are given on this page.) Write your answers in the spaces provided. If you need more room, use the back of this page.

1. A public school principal makes a rule that all printed materials distributed by students in school must be approved by the principal. Failure to get approval will result in expulsion. Before the students are notified of this rule, a student passes out an underground newspaper and is expelled to set an example. _____
2. A suburban community builds a subdivision. The community's zoning sets aside different streets for different races. _____
3. A member of a racist extremist group is scheduled to speak in the Town Hall. Not many people are planning to attend but the Chief of Police hears that there will be trouble. He closes the Town Hall and does not allow the speech to take place. _____
4. A municipal government fires workers who are suspected of belonging to a particular religious group. _____





AMERICA'S CONSCIENCE

The Constitution In Our Daily Life

ACTIVITY

16

Discrimination in Education

The case of **Brown v. The Board of Education of Topeka, Kansas**, decided by the Supreme Court in 1954, has had an impact on American public school education for over thirty years. Activities Sixteen and Seventeen examine this landmark case.

► Before beginning this activity look up these words:

plaintiff
defendant
tangible
segregation

Facts

- The plaintiffs were black children of elementary school age living in Topeka. They brought this lawsuit to overturn a Kansas law which permitted cities with more than 15,000 residents to set up separate schools for black and white students.
- The basis of the Kansas law was the 1896 decision of the Supreme Court, **Plessy v. Ferguson**. The Justices in 1896 found that even if the races had separate facilities, treatment could be considered equal if the facilities were equal. This finding became the so-called "separate but equal" doctrine. While the original court decision applied to accommodations on a railroad, it became the basis for separate but equal laws around the country. Over the years it justified segregation in a great many areas including segregation in education.
- The School Board defendants showed evidence that in tangible ways the separate schools in Topeka were equal—in buildings, curricula, qualifications and salaries of teachers.
- The Supreme Court decided that showing separate educational facilities to be equal in tangible ways was not enough. Instead, they found that
 - 1) segregation has a negative effect on the country as a whole, and
 - 2) segregation has a negative impact on minority children.





AMERICA'S CONSCIENCE

The Constitution In Our Daily Life

ACTIVITY

17

Supreme Court Decision (edited)

**Brown v.
The Board of Education,
Topeka, Kansas
1954**

1) Today, education is perhaps the most important function of state and local governments. Compulsory school attendance laws and the great expenditures for education both demonstrate our recognition of the importance of education to our democratic society. It is required in the performance of our most basic public responsibilities, even service in the armed forces. It is the very foundation of good citizenship. Today it is a principal instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him to adjust normally to his environment. In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity, where the state has undertaken to provide it, is a right which must be made available to all on equal terms.

2) We come then to the question presented: Does segregation of children in public schools solely on the basis of race, even though the physical facilities and other "tangible" factors may be equal, deprive the children of the minority group of equal educational opportunities? We believe that it does. To separate children in grade and high schools from others of similar age and qualifications solely because of their race generates a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely ever to be undone.

3) We conclude that in the field of public education the doctrine of "separate but equal" has no place. Separate educational facilities are inherently unequal. Therefore, we hold that the plaintiffs and others similarly situated for whom the actions have been brought are, by reason of the segregation complained of, deprived of the equal protection of the laws guaranteed by the Fourteenth Amendment. This disposition makes unnecessary any discussion whether such segregation also violates the Due Process Clause of the Fourteenth Amendment.

► Write your answers to the following questions on the back of this paper or on a separate sheet of paper.

1. On what amendment did the Justices base their decision?
2. What sections of this amendment were they particularly considering?
3. Explain the ways in which the Justices felt that the country would be harmed by segregation?
4. Explain the ways in which the Justices felt that black children would be harmed by "separate but equal" schools.
5. In your opinion, what is the most important point made by the Justices in their decision?





AMERICA'S CONSCIENCE

The Constitution In Our Daily Life

ACTIVITY

18

The Psychological Impact of Discrimination

Our constitutional protections exist to ensure that all citizens are given equal opportunity to "pursue happiness" in their own ways. When individuals are treated as "lesser" persons, when rights granted to everyone else are denied them, very painful feelings result. The testimony of doctors and victims in discrimination trials reveal that feelings of sadness and loss are common. Many people are troubled by intense feelings of anger—they can't forget the discriminatory words or actions. Their work and concentration and their relationships with other people may suffer.

The experience of discrimination hurts a person's self-image and damages the sense of positive worth. Those discriminated against may begin to blame themselves or feel that something is wrong with them.

► To understand how discrimination can affect a person's life, do the following exercise.

Imagine yourself finding a college, job or apartment that is just right for you, one you really want. Then imagine your application is turned down because of your sex, race, religion, ethnic background or disability.

1. What kind of feelings would this situation arouse in you?
2. What would you want to do about your feelings?
3. If a person is denied a right or is discriminated against, what are his or her options? Make a list of these options and discuss which you think are the most effective.



AMERICA'S CONSCIENCE

The Constitution In Our Daily Life

ACTIVITY

19

Making Up for Past Discrimination

One question that comes up when talking about equal protection and opportunity, is how to make up for discrimination that has already taken place. The Civil Rights Act of 1964 forbids discrimination on the basis of race, sex, color, national origin or religion. The individual rights guaranteed by the Constitution and federal law encompass two basic principles: first, that all persons be free of discrimination directed against them on grounds of race, religion, creed, sex or national origin; and second, that each person be judged on the basis of his or her individual merits.

One suggested remedy for past discrimination has been the use of quotas. Quotas have most often been used in hiring and in school admissions. When quotas are used, hiring and/or admissions are not color-blind. The candidate is admitted to college or hired on a job according to the racial or ethnic proportions of the general population. For example, if racial minorities made up ten percent of the population, a school using quotas would make sure that at least ten percent of its students each year were minority students.

This type of practice has been called reverse discrimination because it focuses on race, ethnic origin, sex or religion. This focus has led to increased divisions between people even if the original intention is to make up for past discrimination. White men especially have felt victimized if they have been kept out of schools or jobs because of preference given to Blacks or females, the historic victims of discrimination.

The best way to discuss the use of quotas is with an example—the case of Alan Bakke. In 1974, Mr. Bakke, a white male, was rejected for the second time from the University of California's Medical School. Under the medical school's special admissions program, a fixed number of places (16 out of 100) in each class were set aside for minorities (Black, Mexican-American and Asian). These applicants were selected separately using lower and different standards from applicants admitted through regular admissions. In a highly significant education case, Bakke filed suit against the University of California. He believed that the University's quota system violated his rights under the equal protection clause of the Fourteenth Amendment. By a 5-4 vote the Supreme Court stated that the university could not use racial quotas in admitting students.

However, one Justice went on to say that race could be considered as one factor among others in the admissions process in an effort to achieve an ethnically diverse student body. Giving special consideration to the race, sex, or religion of groups who have been victims of discrimination

is called affirmative action. In the Bakke case, affirmative action would mean that if two students of equal merit, one black and one white, had been presented to the admissions committee, the black student might have been chosen because his race could be considered as a significant factor. Another example of affirmative action is a decision by the Court made in March, 1987 in which the Justices voted to uphold a preferential promotion intended to increase female representation in a previously all-male job category. They ruled that race or sex could be used as one factor in promotions in order to remedy a serious imbalance in the workforce.

Questions for Discussion

1. Both quotas and affirmative action have been considered as remedies for past discrimination. Discuss the differences between quotas and the types of affirmative action mentioned in the lesson.
2. Other remedies that have been tried to deal with past discrimination are:
 - busing
 - civil rights laws
 - lawsuits against those who discriminateHow effective do you think each of these is in ending discriminatory practices?
3. Can you think of other remedies to past injustice in hiring, education and housing?



20

We have learned about the Constitution as a protector of rights and enforcer of fair treatment. We are guaranteed rights to worship, speak and read as we choose. We are protected against harassment and persecution by officials who disagree with our beliefs or lifestyles. We have rights to silence and privacy that cannot be violated. And we know that the Constitution ensures equal treatment under the law for ourselves and our fellow citizens.

► For the next month read your community's daily newspaper to find examples of constitutional issues within your local community, state, or nation. Make a list on the back of this paper of these examples, considering both the rights and responsibilities involved in each issue.

After these individual lists are compiled, as a class, choose one issue or topic you wish to study in more detail. Invite to your class a panel composed of experts from local civil rights groups or city and state agencies. Prepare a list of questions for panel members about the issue you have chosen to study.



AMERICA'S CONSCIENCE

The Constitution In Our Daily Life

E V A L U A T I O N F O R M

Was this program useful to you and your class? The Anti-Defamation League of B'nai B'rith would like to know how you feel about the teaching materials in this packet. Would you take a moment to answer the questions below and return this form to us? Thank you.

1. With what grade(s) and class(es) did you use this program?

2. With how many students did you use this program? _____

3. Was the teacher's guide _____ very helpful in presenting program?

_____ fairly helpful in presenting program? _____ not helpful in presenting program?

Comments: _____

4. Were the activity masters _____ very easy to use and understand?

_____ fairly easy to use and understand? _____ difficult to use and understand?

Comments: _____

5. How would you rate the treatment of the subject matter in this program?

_____ thorough _____ adequate _____ too brief

6. As a result of using this program, how many of your students do you believe have a greater understanding of their rights and responsibilities as U.S. citizens?

_____ more than half _____ about half _____ fewer than half

Comments: _____

7. Do you have suggestions for improving this program?

Comments: _____

Teacher's Name _____ Address _____



(Fold)

Place
Stamp
Here

Anti-Defamation League of B'nai B'rith
Education Department
823 United Nations Plaza
New York, NY 10017